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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/786,210	04/25/2001	Josef Eichinger	P01,0087	6582

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EXAMINER

PHU, PHUONG M

ART UNIT	PAPER NUMBER
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2631

DATE MAILED: 08/09/2004 10

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/786,210

Applicant(s)

EICHINGER ET AL.

Examiner

Phuong Phu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-11 and 14-17 is/are rejected.
- 7) ☒ Claim(s) 4, 12, 13 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1, 2, 3, 5, 6-11 and 14-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Kleider et al (6,154,489).

-As per claims 1 and 6, see figures 1, 5-10 and 13, and col. 2, line 21 to col. 7, line 50, col. 9, line 14 to col. 12, line 60, Kleider et al discloses a method and associated system (see figures 1 and 5) comprising:

step (105) (see figure 1) of providing a transmission channel for transmission of a digital information;

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step/means (127) (see figure 1) of measuring and forwarding an identified transmission quality (CS<sub>N</sub>) of a communication channel (see also (503) of figure 5, col. 7, lines 35-50 and col. 9, lines 22-24);

step/means (see (504, 506) of figure 5) of determining a difference between said identified transmission quality and a predetermined transmission quality (CS<sub>0</sub>) required or corresponded to a predetermined transmission data rate employed for an allowed error rate (see also figure 13, col. 2, lines 22-56, col. 12, line 55 to col. 13, line 9); and

step/means (115) (see figure 1) of boosting or lowering a transmission power for a transmission of digital information depending on said difference (see also figures 6, 8 and 9).

As per claim 7, Kleider et al discloses that defining an optimum transmission data rate of a transmission channel dependent on said identified transmission quality and on a modulation method employed (see figure 13, col. 2, lines 22-26, 45-47, col. 3, lines 39-41, col. 4, line 51 to col. 5, line 18, col. 6, lines 56-67, and col. 12, lines 38-55).

-As per claim 8, Kleider et al discloses that defining said optimum transmission data rate dependent on an allowed error rate (see figure 13, col. 2, lines 22-26, 45-47, col. 3, lines 39-41, col. 4, line 51 to col. 5, line 18, col. 6, lines 56-67, and col. 12, lines 38-55).

-As per claim 9, Kleider et al discloses that transmitting said digital information comprises (see figure 1) :

step/means (107) of presenting said digital information in a form of symbols;

step/means (109, 111, 113) of mapping said symbols onto signal values;

step (102) of transmitting said signal values via said transmission channel;

step/means (103) of receiving said transmitted signal values;

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step/means (103, 117) of detecting said received signal values;

step/means (117, 119, 121) of mapping said detected said signal values onto detected symbols; and

step (123) of converting said detected symbols into a detected digital information.

-As per claim 10, Kleider et al further discloses (see figure 5):

step/means (501) of defining a signal-to-noise ratio based on signal values at a receiver side as a criterion for said transmission quality;

step/means (501) of determining said transmission quality of said transmission channel; and

step/means (see figures 6, 7, 9, 10) of defining an allowed optimum transmission data rate of said transmission channel dependent on said identified transmission quality and on said modulation method employed (see also figure 13, col. 2, lines 22-26, 45-47, col. 3, lines 39-41, col. 4, line 51 to col. 5, line 18, col. 6, lines 56-67, and col. 12, lines 38-55).

-Claim 11 is rejected with similar reasons set forth for claim 8.

-As per claim 14, Kleider et al discloses that boosting or lowering a transmission power for said transmission of digital information depending on said difference between said identified transmission quality and said predetermined transmission quality (CS<sub>0</sub>) required or corresponded to a predetermined transmission data rate employed for an allowed error rate (see also figure 13, col. 2, lines 22-56, col. 12, line 55 to col. 13, line 9)

-Claim 15 is rejected with similar reasons set forth for claim 9.

-Claim 16 is rejected with similar reasons set forth for claim 9.

-Claim 17 is rejected with similar reasons set forth for claims 5 and 10.

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-Claim 2 is rejected with similar reasons set forth for claim 7.

-Claim 3 is rejected with similar reasons set forth for claim 8.

-Claim 5 is rejected with similar reason set forth for claim 9.

3. Claims 1, 2, 3, 5, 6-11 and 14-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Balacchandran et al (6,108,374).

-As per claims 1 and 6, see figures 3, 6, 8, 9 and 12, and col. 3, line 58 to col. 5, line 14, col. 6, line 12 to col. 7, line 31, col. 9, line 32 to col. 10, line 11, col. 10, line 57 to col. 11, line 35, Balacchandran et al discloses a method and associated system (see figures 6 and 12) comprising:

step (194) (see figure 12) of providing a transmission channel for transmission of a digital information;

step/means (208) (see figure 12) of measuring and forwarding an identified transmission quality of a communication channel;

step/means (see (110, 116) of figure 6) of determining a difference between said identified transmission quality and a predetermined transmission quality required or corresponded to a predetermined transmission data rate employed for an allowed error rate (see also figures 8 and 9); and

step/means (212) (see figure 12) of boosting or lowering a transmission power for a transmission of digital information depending on said difference.

As per claim 7, Balacchandran et al discloses that defining an optimum transmission data rate of a transmission channel dependent on said identified transmission quality and on a modulation method employed (see figures 8 and 9).

-As per claim 8, Balacchandran et al discloses that defining said optimum transmission data rate dependent on an allowed error rate (see figures 8 and 9).

-As per claim 9, Balacchandran et al discloses that transmitting said digital information comprises (see figure 3) :

step/means (inherently included) of presenting said digital information in a form of symbols (36);

step/means (38, 42) of mapping said symbols onto signal values;

step (46) of transmitting said signal values via said transmission channel;

step/means (52) of receiving said transmitted signal values;

step/means (52) of detecting said received signal values;

step/means (56) of mapping said detected said signal values onto detected symbols; and

step (56) of converting said detected symbols into a detected digital information.

-As per claim 10, Balacchandran et al further discloses (see figure 12):

step/means (208) of defining a signal-to-noise ratio based on signal values at a receiver side as a criterion for said transmission quality;

step/means (208) of determining said transmission quality of said transmission channel;  
and

step/means (see figures 8 and 9) of defining an allowed optimum transmission data rate of said transmission channel dependent on said identified transmission quality and on said modulation method employed.

-Claim 11 is rejected with similar reasons set forth for claim 8.

-As per claim 14, Balacchandran et al discloses that boosting or lowering a transmission power for said transmission of digital information depending on said difference between said identified transmission quality and said predetermined transmission quality required or corresponded to a predetermined transmission data rate employed for an allowed error rate (see figures 6, 8, 9 and 12)

-Claim 15 is rejected with similar reasons set forth for claim 9.

-Claim 16 is rejected with similar reasons set forth for claim 9.

-Claim 17 is rejected with similar reasons set forth for claims 5 and 10.

-Claim 2 is rejected with similar reasons set forth for claim 7.

-Claim 3 is rejected with similar reasons set forth for claim 8.

-Claim 5 is rejected with similar reason set forth for claim 9.

#### ***Allowable Subject Matter***

4. Claims 4, 18, 12 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

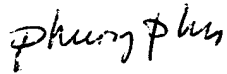
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong Phu whose telephone number is 703-308-0158. The examiner can normally be reached on M-F (8:30-6:00) First Monday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad Ghayour can be reached on 703-306-3034. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Phuong phu  
06/21/04

Phuong Phu  
Primary Examiner  
Art Unit 2631

**PHUONG PHU**  
**PRIMARY EXAMINER**